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MEMORANDUM

DATE: October 2, 2003

TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee and
Members of the Committee

FROM: Lonnie Nichols, City Planner

SUBJECT: Rezoning Petition for 3755-59 Penn Ave North, The Gas Stop (BZZ 996)

At the September 22, 2003 City Planning Commission hearing, the commission voted 4 - 3 to deny the rezoning of a vacant lot at 3755 Penn Avenue North from R2B (residential two-family) to C-2 (Neighborhood Corridor Commercial) and an existing gas station at 3759 Penn Avenue North from C-1 (Neighborhood Commercial) to C-2 to allow the expansion of the Gas Stop Corporation gas pump islands.

The applicants, Michael and Nancy Slattery, and residents of the area have stated an interest in speaking at the Zoning and Planning Committee hearing.

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Application for **BZZ 996** Rezoning, Conditional Use Permit, Site Plan Review, Variances

Date: September 22, 2003

Applicant: Michael and Nancy Slattery, Gas Stop Corporation, 3755-59 Penn Avenue North

End of 60 Day Decision Period: October 28, 2003

Address Of Property: Gas Stop Corporation, 3755-59 Penn Avenue North, Mpls, MN 55412

Contact Person And Phone: Michael & Nancy Slattery, work: 612-287-9789 cell: 651-442-3535
MNSlattery@msn.com

Planning Staff And Phone: Lonnie Nichols, 612-673-5468

Ward: 4 **Neighborhood Organization:** Cleveland Neighborhood Organization

Existing Zoning: Mixed: 3755 (lot adjacent to existing Gas Stop) zoned R2B (Two Family District)
3759 (Gas Stop bldg, two pumps, convenience store) zoned C1 (Neighborhood Commercial District)

Proposed use: ReZone both properties to C2 (Neighborhood Corridor Commercial) District. Upgrade the existing Gas Stop building and convenience store and add two more gas pumps (total of four pumps).

Appropriate Section(s) of the Zoning Code: Chapter 525 Administration and Enforcement, Chapter 529 Interim Ordinances (529.50 Waiver of Restriction), Chapter 530 Site Plan Review, Chapter 531 Nonconforming Uses and Structures, Chapter 546 Residence District, Chapter 548 Commercial Districts

Background:

3759 Penn Avenue North is a legal conforming gas station in the C-1 Zoning District. The adjacent parking area, 3755 Penn Avenue North, is zoned R2B and has been used as a parking lot accessory to the gas station for an indefinite number of years. Planning staff was informed by zoning personnel that a former owner of 3755-59 Penn Avenue North demolished the house on 3755 and paved the lot. Ever since, the lot (at 3755 Penn) has been a point of contention, and is sometimes required to be roped-off from use by the inspections department. The status of the lot is a zoning violation the applicants (current owners) inherited and are attempting to rectify through this rezoning, conditional use permit, site plan review, and variance application. The applicants also own the residential property with a house on it at 3751 Penn Avenue North located adjacent to the South in the R2B zoning district.

Previous Action: The site is located in the area of the previous moratorium (moratorium expired in May 2003) on establishment or reestablishment of convenience/grocery stores in the C1 (Neighborhood Commercial) district between Penn and Lyndale Avenues North and 26th and 44th Avenues North. On February 20, the Zoning and Planning Committee granted the applicants a waiver from the restrictions included in the moratorium on the establishment, reestablishment, or expansion of grocery stores and

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automobile convenience facilities in the C1 and C2 zoning districts between Penn & Lyndale Avenues North and 26th & 44th Avenues North to permit the upgrade of the existing Gas Stop building and convenience store, and addition of two more gas pumps (bringing total number of gas pumps to four).

Neighborhood Review

The applicant submitted a memo (attached) stating that representatives from Gas Stop met with the Cleveland Neighborhood Association on November 18, 2002 to discuss the proposed improvements to the Gas Stop properties for the moratorium waiver and subsequent applications as needed for site plan review. Staff has attached letters of general support from the four neighborhoods that intersect at Dowling and Penn (Cleveland, Webber-Camden, Folwell, and Victory). Opinions stated by nearby residents are mixed, but tend to be more supportive than opposed due to the belief that the proposed redevelopment may improve the existing conditions. Staff has not been informed of any objections from the office of Barbara Johnson, Council Member – Ward 4.

Zoning Code Research:

Section 530.140(e): To the extent possible, site plans shall minimize the use of impervious surface.

Section 530.150: Not less than 20% of the site not occupied by buildings shall be landscaped.....

Section 530.240(b): Parking and loading facilities and other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.

Section 531.10-110: Nonconforming uses and structures, not applicable. The applicants were advised to pursue rezoning 3755-3759 Penn Avenue North to C2 by the zoning administrator and to not pursue an expansion of a nonconforming use at 3759 Penn and rezoning of 3755 Penn (currently paved over, vacant lot) from R2B to C1 because installing a new gas pump island on a C1 zoned lot would not be allowed by the 1999 zoning code. As per the 1963 zoning code, The Gas Stop at 3759 Penn Avenue North is a legal conforming use.

Chapter 548.140: Yard Requirements: Setback calculated by adjacent residential property at 3751 Penn

Chapter 548 Table 2: Lot Dimension Requirements in Commercial Districts. Automobile Services have a minimum Lot Area of 12,000 sf and a minimum Lot Width of 100 feet. The applicant is proposing a Lot Area of 9778 sf (40 + 37.6 x 126) and Lot Width of 77.6 feet.

Chapter 525.520(2): Vary lot area or lot width requirements up to 30%, (12,000 – (12K x 30%) = 8400 sf). When the applicants first approached the City, 525.520(2) read: Vary lot area or lot width requirements up to 30%, (12,000 – (12K x 20%) = 9600 sf)

Findings for Rezoning Petition As Required By The Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan shows the intersection of Penn and Dowling Avenue North as the merger of two community corridors. The plan states that, “community corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass-through traffic.”

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In general the comprehensive plan supports medium density residential development near this intersection and single family and two family residential in the greater area. However, the intersection is already established as a mix of uses (cemetery (OR2 & R1), C-store w/gas pumps (C1), residential duplex (R4), and mixed used building-commercial use with 4 dwelling units (C1) that has been under renovation for the past year, that appear to be sustainable together. The Gas Stop building has anchored the Southwest corner of the Penn-Dowling intersection since 1954. One R-5 lot is West across the alley, and Northeast of it across Queen Avenue and Dowling is Rio Hot Properties-a live –work residence zoned OR1. Penn Avenue, South of Dowling and Thomas Avenue North of Dowling have several blocks of mixed-uses and zoning (C1, R4, R5, OR1, and R2B). The area is otherwise zoned R1 and R1A, with the cemetery providing a large expanse of greenspace is the Southwest corner of Webber-Camden neighborhood.

The property is located at the intersection of Dowling Avenue and Penn Avenue North, both streets are designated as a Community Corridors in the Minneapolis Plan, see sections 4.2, 4.4, 9.27.

- 4.2 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.**

Implementation Steps

Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

Ensure that commercial uses do not negatively impact nearby residential areas.

Prioritize transit advantages to Community Corridor streets, and encourage the routing of express transit service to these streets wherever possible.

- 4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.**

Implementation Steps

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

Encourage coordination and communication between business associations and neighboring residents groups.

- 9.27 Minneapolis will coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.**

Implementation Steps

Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

Ensure that commercial uses do not negatively impact nearby residential areas.

Prioritize transit advantages to community corridor streets, and encourage the routing of express transit service to these streets wherever possible.

The proposed development for rezoning and site plan improvements is both supported and not supported by the policies of The Minneapolis Plan. The Gas Stop, an existing commercial service on a community

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corridor, has proposed a redevelopment plan that includes the restoration and renovation of the C-store building, new curb cuts and two additional gas pumps to alleviate existing traffic and service concerns, closing off alley access to lessen the impact on nearby residential properties.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The rezoning will allow the redevelopment and continued operation of a longstanding C-store with gas pumps on the existing site and an adjacent vacant lot, which is in the interest of the property owner. This should be an improvement over a vacant lot.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The intersection is already established as a mix of uses (cemetery (OR2 & R1), C-store w/gas pumps (C1), residential duplex (R4), and mixed used building-commercial use with 4 dwelling units (C1) that has been under renovation for the past year, that appear to be sustainable together. The Gas Stop building has anchored the Southwest corner of the Penn-Dowling intersection since 1954. One R-5 lot is West across the alley and Northeast of it across Queen Avenue and Dowling is Rio Hot Properties-a live-work residence zoned OR1. Penn Avenue, South of Dowling and Thomas Avenue North of Dowling each have several consecutive blocks of assorted uses and zoning classifications (C1, R4, R5, OR1, and R2B). The area is otherwise zoned R1 and R1A, with the cemetery providing a large expanse of greenspace Northeast of the Gas Stop for several contiguous blocks. The existing uses appear to be incompatible with the proposed zoning classification.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses under the code for R2B zoning. The applicant could build a single family home.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

There has not been a change in character on these lots or on the lots in the immediate vicinity of the site.

Recommendation Of The City Planning Department:

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and approve the application for rezoning 3755 Penn Avenue North from R2B to C2 and 3759 Penn Avenue North from C1 to C2.

Findings for Conditional Use Permits as Required by the Minneapolis Zoning Code:

Findings as Required by the Minneapolis Zoning Code for:

a Conditional Use Permit to establish and operate a convenience store and pump islands located at 3755-3759 Penn Avenue North:

1. Will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

The existing use of the site is a C-store and gas station on 3759 Penn Avenue North and vacant, paved over lot on 3755 Penn Avenue North. Although two more pump islands are being added on the proposed site plan, curb cuts are being changed to better accommodate traffic, additional landscaping is being offered, alley access is being closed, and parking is provided.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district, nor substantially diminish and impair property values.

The building footprint is proposed to remain as is, but the exterior of the building will be renovated and the aesthetics of the site improved.

3. Will have adequate utilities, access roads, drainage and/or other necessary facilities.

The site has or the applicant will provide adequate utilities, curb cuts, drainage and necessary facilities.

4. Will adequately provide ingress and egress designed as to minimize traffic congestion in the public streets.

The Public Works department was not opposed to a 2002 conceptual plan proposed by the applicants to close off alley access and move the existing curb cut on Penn Avenue North further South on the property to minimize traffic congestion into the facility. The zoning code indicates that curb cuts cannot be over 25 feet wide unless approved by Public Works. Final approval of curb cut widths will need to be coordinated with Public Works.

5. Is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan shows the intersection of Penn and Dowling Avenue North as the merger of two community corridors. The plan states that, “community corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass-through traffic.”

The Minneapolis Plan has the following applicable goal and implementation steps related to the Gas Stop application.

- 4.3 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.**

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Implementation Steps

Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

Ensure that commercial uses do not negatively impact nearby residential areas.

Prioritize transit advantages to Community Corridor streets, and encourage the routing of express transit service to these streets wherever possible.

4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

Implementation Steps

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

Encourage coordination and communication between business associations and neighboring residents groups.

9.27 Minneapolis will coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Implementation Steps

Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

Ensure that commercial uses do not negatively impact nearby residential areas.

Prioritize transit advantages to community corridor streets, and encourage the routing of express transit service to these streets wherever possible.

The proposed development for rezoning and site plan improvements is both supported and not supported by The Minneapolis Plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, rezoning, site plan review, and variances.

The existing and proposed use is allowed subject to the specific development standards listed (below) in chapter 536 of the zoning code for an automobile convenience facility. In this particular situation, the applicant has also applied for variance approvals.

Automobile convenience facility.

(1) The sale or repair of vehicles shall be prohibited.

(2) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.

(3) Service area canopy light fixtures shall be completely recessed within the canopy so that the lenses shall not extend beyond the surface of the canopy.

(4) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

(5) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

Recommendation of the Minneapolis City Planning Department

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for a Conditional Use Permit to establish and operate an automobile convenience facility located at 3755 to 3759 Penn Avenue North with the following conditions: 1) City Planning Commission and City approvals of the Rezoning 3755 and 3759 Penn Avenue North to C2, and; 2) City Planning Commission approval of the site plan and variances, and; 3) the planning department's review and approval of the final site plan and variances for the properties located at 3755 to 3759 Penn Avenue North.

Findings for Variances as required by the Minneapolis Zoning Code to:

A) reduce the required side and rear yard setbacks adjacent to residential from five (5) feet to zero feet; B) reduce the required 15 foot setback for the first forty (40) feet of lot adjacent to a residential use to zero feet; C) reduce the number of required stacking spaces at the four proposed gas pump islands; D) reduce the two-way drive aisle width below the minimum requirement of twenty-two (22) feet to allow on-site circulation; E) Vary the lot area or lot width requirements from 12,000 sf and 100 lf respectively to a lot Area of 9778 sf (40 + 37.6 x 126) and Lot Width of 77.6 feet, and; F) reduce required off street parking from four to two stalls.

- 1. The majority of the property can be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause limited undue hardship.**

Rear and Side yard setbacks: The applicant is seeking a variance to reduce the required rear yard and side yard setbacks from five (5) feet to zero feet to allow for a dumpster enclosure, loading zone and existing air hose along the alley (rear), and from 5 feet to zero feet to in the side yards to allow impervious surface area for a parking stall in the South side yard setback and vehicular maneuvering in the North side yard setback.

These areas are currently covered with asphalt. The applicant has proposed closing off alley access with landscaping on 3755 Penn and a retaining wall, dumpster enclosure, loading zone, and the existing air hose service for 3759 along the alley. There is landscaping proposed between the North side of the building and the public sidewalk, and an existing curb cut, impervious surface, and bus shelter on the applicant's property along Dowling Avenue (North side yard). There is an existing wooden fence and five feet of landscaping proposed for most of the Southern lot line (south side yard).

Required 15-foot setback for first 40 feet of lot adjacent to residential use: The applicant is seeking a variance to reduce the required 15 foot setback for the first forty (40) feet of lot adjacent to a residential use to zero feet.

The applicant has proposed to use the 15-foot setback for the first 40 feet of lot adjacent to a residential use for impervious surface to allow vehicular maneuverability. Staff however feels the applicant can provide some landscaping and wrought iron type fencing (minimum 60% opaque and minimum height 3 feet or maximum height 4 feet) along the inside of the public sidewalk on Penn Avenue North.

Reduction of required stacking spaces: The applicant is seeking a variance to reduce the number of required stacking spaces at the proposed gas pump islands.

Table 541-5 of the zoning code requires one stacking space (8 feet wide x 18 feet depth) from the end of each pump island. The applicant is seeking this variance to allow the required stacking spaces to overlap with the required two-way drive aisle widths on site. This could cause conflicts with traffic flow and circulation.

Reduction of required two-way drive aisle width: The applicant is seeking a variance to reduce the two-way drive aisle width below the minimum requirement of twenty-two (22) feet to allow on-site circulation.

Table 541-4 of the zoning code requires that two-way drive aisles be 22 feet in width. The applicant is seeking this variance to allow the required two-way drive aisle widths to overlap with the required stacking spaces on site. This could cause conflicts with traffic flow and circulation.

Vary the lot area or lot width requirements: The applicant is seeking a variance from the required lot dimensions listed for Commercial Districts in Table 548-2 of the code which states 12,000 sf area and 100 feet width respectively to a lot Area of 9778 sf (40 + 37.6 x 126) and Lot Width of 77.6 feet. This could cause conflicts with traffic flow and circulation. The applicants also own 3751 Penn Avenue North, but want to retain the dwelling unit on this parcel in lieu of any further sprawl of the C-store and gas pump operation.

Reduce required off street parking: The applicant is seeking this variance to reduce required off street parking from four stalls down to a minimum of two stalls. Staff believes the applicant can provide three legal size parking stalls (two standard size-8.5' wide x 18' depth and one handicapped accessible 13' wide x 18' depth) on the south side of the C-store and bicycle parking between the North wall of the C-store and the public sidewalk to eliminate the need for this variance.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Rear and Side yard setbacks: The applicant is seeking a variance to reduce the required rear yard and side yard setbacks from five (5) feet to zero feet to allow for a dumpster enclosure, loading zone and existing air hose along the alley (rear), and from 5 feet to zero feet to in the side yards to allow impervious surface area for a parking stall in the South side yard setback and vehicular maneuvering in the North side yard setback.

These areas are currently covered with asphalt. The applicant has proposed closing off alley access with landscaping on 3755 Penn and a retaining wall, dumpster enclosure, loading zone, and the existing air hose service for 3759 along the alley. There is landscaping proposed between the North side of the building and the public sidewalk, and an existing curb cut, impervious surface, and bus shelter on the applicant's property along Dowling Avenue (North side yard). There is an existing wooden fence and five feet of landscaping proposed for most of the Southern lot line (south side yard).

Required 15-foot setback for first 40 feet of lot adjacent to residential use: The applicant is seeking a variance to reduce the required 15 foot setback for the first forty (40) feet of lot adjacent to a residential use to zero feet.

The applicant has proposed to use the 15-foot setback for the first 40 feet of lot adjacent to a residential use for impervious surface to allow vehicular maneuverability. The size of the site requires the variances for the site to be used effectively. The existing site is used in this manner. Staff however feels the applicant can provide some landscaping and wrought iron type fencing (minimum 60% opaque and minimum height 3 feet or maximum height 4 feet) along the inside of the public sidewalk on Penn Avenue North.

Reduction of required stacking spaces: The applicant is seeking a variance to reduce the number of required stacking spaces at the proposed gas pump islands.

Table 541-5 of the zoning code requires one stacking space (8 feet wide x 18 feet depth) from the end of each pump island. The applicant is seeking this variance to allow the required stacking spaces to overlap with the required two-way drive aisle widths on site. This could cause conflicts with traffic flow and circulation.

Reduction of required two-way drive aisle width: The applicant is seeking a variance to reduce the two-way drive aisle width below the minimum requirement of twenty-two (22) feet to allow on-site circulation.

Table 541-4 of the zoning code requires that two-way drive aisles be 22 feet in width. The applicant is seeking this variance to allow the required two-way drive aisle widths to overlap with the required stacking spaces on site. This could cause conflicts with traffic flow and circulation.

Vary the lot area or lot width requirements: The applicant is seeking a variance from the required lot dimensions listed for Commercial Districts in Table 548-2 of the code which states 12,000 sf area and 100 feet width respectively to a lot Area of 9778 sf (40 + 37.6 x 126) and Lot Width of 77.6 feet. This could cause conflicts with traffic flow and circulation. The size of the site requires the variances for the site to be used effectively.

Reduce required off street parking: The applicant is seeking this variance to reduce required off street parking from four stalls down to a minimum of two stalls. Staff believes the applicant can provide three legal size parking stalls (two standard size-8.5' wide x 18' depth and one handicapped accessible 13' wide x 18' depth) on the south side of the C-store and bicycle parking between the North wall of the C-store and the public sidewalk to eliminate the need for this variance.

3. **The granting of the variance may (not) be in keeping with the spirit and intent of the ordinance and may alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Rear and Side yard setbacks: The applicant is seeking a variance to reduce the required rear yard and side yard setbacks from five (5) feet to zero feet to allow for a dumpster enclosure, loading zone and existing air hose along the alley (rear), and from 5 feet to zero feet to in the side

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yards to allow impervious surface area for a parking stall in the South side yard setback and vehicular maneuvering in the North side yard setback.

These areas are currently covered with asphalt. The applicant has proposed closing off alley access with landscaping on 3755 Penn and a retaining wall, dumpster enclosure, loading zone, and the existing air hose service for 3759 along the alley. There is landscaping proposed between the North side of the building and the public sidewalk, and an existing curb cut, impervious surface, and bus shelter on the applicant's property along Dowling Avenue (North side yard). There is an existing wooden fence and five feet of landscaping proposed for most of the Southern lot line (south side yard). The site is currently used for this purpose and has been since 1954. This would not be a new intrusion into the neighborhood.

Required 15-foot setback for first 40 feet of lot adjacent to residential use: The applicant is seeking a variance to reduce the required 15 foot setback for the first forty (40) feet of lot adjacent to a residential use to zero feet.

The site is currently used for this purpose and has been since 1954 for 3759 Penn and since the house was removed from 3755 Penn. This would not be a new intrusion into the neighborhood.

Reduction of required stacking spaces: The applicant is seeking a variance to reduce the number of required stacking spaces at the proposed gas pump islands.

Table 541-5 of the zoning code requires one stacking space (8 feet wide x 18 feet depth) from the end of each pump island. The applicant is seeking this variance to allow the required stacking spaces to overlap with the required two-way drive aisle widths on site. This could cause conflicts with traffic flow and circulation. This would not be in keeping with the spirit and intent of the ordinance.

Reduction of required two-way drive aisle width: The applicant is seeking a variance to reduce the two-way drive aisle width below the minimum requirement of twenty-two (22) feet to allow on-site circulation. Table 541-4 of the zoning code requires that two-way drive aisles be 22 feet in width. The applicant is seeking this variance to allow the required two-way drive aisle widths to overlap with the required stacking spaces on site. This would not be in keeping with the spirit and intent of the ordinance.

Vary the lot area or lot width requirements: The applicant is seeking a variance from the required lot dimensions listed for Commercial Districts in Table 548-2 of the code which states 12,000 sf area and 100 feet width respectively to a lot Area of 9778 sf ($40 + 37.6 \times 126$) and Lot Width of 77.6 feet. This could cause conflicts with traffic flow and circulation. The applicants also own 3751 Penn Avenue North, but want to retain the dwelling unit on this parcel in lieu of any further sprawl of the C-store and gas pump operation.

Reduce required off street parking: The applicant is seeking this variance to reduce required off street parking from four stalls down to a minimum of two stalls. Staff believes the applicant can provide three legal size parking stalls (two standard size-8.5' wide x 18' depth and one handicapped accessible 13' wide x 18' depth) on the south side of the C-store and bicycle parking between the North wall of the C-store and the public sidewalk to eliminate the need for this variance.

4. **The proposed variance may substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Rear and Side yard setbacks: The applicant is seeking a variance to reduce the required rear yard and side yard setbacks from five (5) feet to zero feet to allow for a dumpster enclosure, loading zone and existing air hose along the alley (rear), and from 5 feet to zero feet to in the side yards to allow impervious surface area for a parking stall in the South side yard setback and vehicular maneuvering in the North side yard setback.

The plan providing for more space should not increase congestion in the public streets.

Required 15-foot setback for first 40 feet of lot adjacent to residential use: The applicant is seeking a variance to reduce the required 15 foot setback for the first forty (40) feet of lot adjacent to a residential use to zero feet.

The plan providing for more space should not increase congestion in the public streets.

Reduction of required stacking spaces: The applicant is seeking a variance to reduce the number of required stacking spaces at the proposed gas pump islands.

Reduction of stacking spaces could cause some congestion in the public streets.

Reduction of required two-way drive aisle width: The applicant is seeking a variance to reduce the two-way drive aisle width below the minimum requirement of twenty-two (22) feet to allow on-site circulation.

Reduction of stacking spaces could cause some congestion in the public streets.

Vary the lot area or lot width requirements: The applicant is seeking a variance from the required lot dimensions listed for Commercial Districts in Table 548-2 of the code which states 12,000 sf area and 100 lf width respectively to a lot Area of 9778 sf (40 + 37.6 x 126) and Lot Width of 77.6 feet. This could cause conflicts with traffic flow and circulation, and at the same time may be an improvement from the existing situation. The plan providing for more space should not increase congestion in the public streets.

Reduce required off street parking: The applicant is seeking this variance to reduce required off street parking from four stalls down to a minimum of two stalls. Staff believes the applicant can provide three legal size parking stalls (two standard size-8.5' wide x 18' depth and one handicapped accessible 13' wide x 18' depth) on the south side of the C-store and bicycle parking between the North wall of the C-store and the public sidewalk to eliminate the need for this variance.

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Recommendation of the Minneapolis City Planning Department on Variance Applications:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for the Variance to reduce the required rear yard setback adjacent to residential from five (5) feet to zero feet at 3759 Penn Avenue to allow a dumpster, dumpster screening, loading zone and existing air hose and reduce the required side yard (North) setback of 3759 Penn Avenue North to allow bicycle parking, bus shelter, trade mark sign, and existing curb cut onto Dowling Avenue in locations approved on the final site plan by planning staff.

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for the Variance to reduce the required 15 foot setback for the first forty (40) feet of lot adjacent to a residential use to five feet to the southern edge of the curb cut on Penn Avenue North to allow room for landscaping and wrought iron type fencing and to zero feet to the North of the southern edge of the curb cut on Penn Avenue North to allow a driveway entrance.

The City Planning Department recommends that the City Planning Commission adopt the above findings and **deny** the application for the Variance to reduce the number of required stacking spaces at the four proposed gas pump islands.

The City Planning Department recommends that the City Planning Commission adopt the above findings and **deny** the application for the Variance to reduce the two-way drive aisle width below the minimum requirement of twenty-two (22) feet to allow on-site circulation.

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for the Variance to vary the lot area and lot width requirements from 12,000 sf and 100 lf respectively to a lot Area of 9776 sf (40 + 37.6 x 126) and Lot Width of 77 feet.

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for the Variance to reduce required off street parking from four to two stalls.

SITE PLAN REVIEW: Required Findings for Major Site Plan Review

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.

The site is a corner lot whose property line nearly abuts the public sidewalks on Penn and Dowling Avenues North and the alley (as shown on the site plan), with limited public Right of Way space on the inside of the sidewalks. The proposed plan will not change the existing building footprint of 1175 sf. The applicants have not provided details on the exterior improvements planned for the facades of the building, but it is staff's understanding the existing structure will be refurbished and restored. Staff is requesting the applicants to consider adding window space to the North facing, eastern corner of the building to allow natural surveillance onto Dowling Avenue. Although the building is setback approximately five feet from the sidewalk along Dowling and near the rear of the lot behind the gas pumps from Penn Avenue, the presence of signage, a bus shelter, and canopy above the gas pumps does reinforce the street wall. The building was constructed of concrete block in 1954. Staff is recommending decorative fencing and landscaping be added to the site.

ACCESS AND CIRCULATION:

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

The Public Works department was not opposed to a 2002 conceptual plan proposed by the applicants to close off alley access and move the existing curb cut on Penn Avenue North further South on the property to minimize traffic congestion into the facility. The zoning code indicates that curb cuts cannot be over 25 feet wide unless approved by Public Works. Final approval of curb cut widths will need to be

coordinated with Public Works. The Gas Stop is scheduled for a second meeting at Preliminary Plan Review on September 17, 2003. As per section 541.200 (2) Transit Incentives, All Uses: The minimum parking requirement may be reduced by 10% if the use provides an adequate sheltered transit stop within the development, as determined by the City Engineer. As per section 541.220(a) of the code, "A minimum of four (4) bicycle parking spaces may be provided in lieu of not more than one (1) automobile parking space. Planning staff supports the reduction of one (1) parking stall for providing bicycle parking and the City Engineer is responsible for determining transit incentives reductions, which in this instance could not reduce the parking requirement from 4 stalls. The final site plan should show a clear and well-lighted walkway of at least four (4) feet in width connecting the building entrance to the adjacent public sidewalk on Dowling Avenue. A transit shelter currently exists on site along Dowling Avenue. Staff is requiring the applicant contact Metro Transit to determine if the existing bus shelter can be relocated further east toward Penn Avenue to allow better onsite vehicular circulation. An area for snow storage has been identified on the site plan and the applicant has stated on the site plan that excessive amounts of snow will be removed from the property. Staff supports the applicant's proposal to remove impervious surface, close off the alley, and add more landscaping to the site. Revisions to the landscaping plan are offered in next section (Landscaping and Screening) of this report.

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement scale of the development and its surroundings
- Not less than twenty (20) percent of site not occupied by buildings shall be landscaped as per section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence, masonry wall, or hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in 530.230.

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The site plan does not state whether or not the parking lot will be bounded by the required 6-inch by 6-inch continuous concrete curbing. Wheel stops are shown for the proposed parking stalls. Planning staff will require the 6-inch by 6-inch continuous concrete curbing, unless public works staff will concur that areas on the site are adequately served by allowing water to drain from an impervious surface into the landscaped areas. Section 530.150 of the zoning code requires not less than one (1) canopy tree for each one thousand sf and not less than one (1) shrub per each 200 sf of the site not occupied by buildings (calculation: $9778 - 1175 = 8603$ sf). Application of section 530.150 on the site requires 9 canopy trees and 43 shrubs. The applicant is proposing two (2) canopy trees and up to eight (8) shrubs of unknown variety (depending on which version of the plan is used) on the property. The applicants have proposed a maximum of 1544 sf of landscaping or approximately 16% of site not occupied by building footprint (calculation: $1544/9778 = .1579$). The applicant does not provide the five-foot landscaping setback adjacent to residentially zoned properties as required by the code along Penn and Dowling Avenues. Staff is requesting the applicant provide decorative fencing, bicycle parking, and a bus shelter on site in exchange for not providing the required landscaping percentage, plant count, and landscaped setbacks in all places on the site required by Chapter 530 of the code. The specifics of alternative compliance can be discussed by the City Planning Commission, as staff is also recommending the applicant make revisions to the site proposal prior to submitting final site plans. There are three versions of the site plan (A,B,C) included in the packet. Staff is recommending a hybrid version of the site plans be discussed and recommended by City Planning Commission at hearing.

ADDITIONAL STANDARDS:

- **Lighting shall comply with requirements of Chapter 535 and 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **Buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260.**
- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

Lighting will comply with Chapters 535 and 541. The parking will be screened to the standards of the code and to prevent headlights from shining on residential properties. The City's CPTED officer has recommended that all plantings follow the 3' – 7' rule to allow visibility into the site. Staff is recommending exterior building lights, the lighting underneath the canopy, and all other exterior lighting use the minimum intensity needed to illuminate the area and be shielded to direct lighting downward instead of outward toward adjacent properties. The existing building is 15 feet tall and will not block views of important elements of the city or shadow public spaces and adjacent properties.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE: Specific Development Standards: The proposed development is subject to the following specific development standards from Chapter 536 of the code for an Automobile convenience facility:

- (1) The sale or repair of vehicles shall be prohibited.
- (2) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
- (3) Service area canopy light fixtures shall be completely recessed within the canopy so that the lenses shall not extend beyond the surface of the canopy.
- (4) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
- (5) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

Automobile rental. Fuel pumps for the purpose of the retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on-site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to preclude the escape of gas vapors from the fill pipes.

Hours of Operation: Hours of operation allowed under either the C-1 (Neighborhood Commercial) or C-2 (Neighborhood Corridor Commercial) are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant has not applied to operate beyond these allowed hours of operation.

Signage: All signage is subject to Sections 531 and 543 of the Zoning Code. Signage is required to meet the requirements of the code and may require permits from the zoning office. The applicant will need to submit a complete sign inventory for review by city staff if final site plans are needed. The applicants may have grandfather rights to some existing signage, but also may need to apply for additional permits of variances to be in conformance with the zoning code.

Dumpster screening: Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. A dumpster enclosure in compliance with section 535.80 appears to be provided on the site plan.

Window obstructions: Section 543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330. Existing signs overwhelm the windows requiring some signage to be removed to meet the intent of the zoning code.

MINNEAPOLIS PLAN:

The Minneapolis Plan shows the intersection of Penn and Dowling Avenue North as the merger of two community corridors. The plan states that, “community corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass-through traffic.”

The Minneapolis Plan has the following applicable goal and implementation steps related to the Gas Stop application.

- 4.4 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.**

Implementation Steps

- Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.
- Support the continued presence of small-scale retail sales and commercial services along Community Corridors.
- Ensure that commercial uses do not negatively impact nearby residential areas.
- Prioritize transit advantages to Community Corridor streets, and encourage the routing of express transit service to these streets wherever possible.

- 4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.**

Implementation Steps

- Provide for a range of commercial districts that provide the services required by the residents and businesses.
- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.
- Encourage coordination and communication between business associations and neighboring residents groups.

- 9.27 Minneapolis will coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.**

Implementation Steps

- Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.
- Support the continued presence of small-scale retail sales and commercial services along Community Corridors.
- Ensure that commercial uses do not negatively impact nearby residential areas.
- Prioritize transit advantages to community corridor streets, and encourage the routing of express transit service to these streets wherever possible.

The proposed development for rezoning and site plan improvements is in conformance with these objectives of *The Minneapolis Plan*. The Gas Stop, an existing commercial service on a community corridor, has proposed a redevelopment plan that includes the restoration and renovation, new curb cuts

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and two additional gas pumps to alleviate existing traffic and service concerns, closing off alley access to lessen the impact on nearby residential properties, and the continued presence of a bus shelter on their property.

Based on these findings from the Minneapolis Plan, staff feels this project is not inconsistent with these applicable policies of the comprehensive plan.

Section C:Conformance with Applicable Development Plans or Objectives Adopted by City Council

Staff is not aware of any development plans or objectives approved by the City Council for this specific area beyond the Comprehensive Plan.

Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Staff is requesting the applicant provide decorative fencing, bicycle parking, and a bus shelter on site in exchange for not providing the required landscaping percentage, plant count, and landscaped setbacks in all places on the site required by Chapter 530 of the code. The specifics of alternative compliance can be discussed by the City Planning Commission, as staff is also recommending the applicant make revisions to the site proposal prior to submitting final site plans.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

SITE PLAN REVIEW

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the site plan (BZZ 996) for 3755-3759 Penn Avenue North subject to the following conditions:

- 1) Approval of the Rezoning Petition to change 3755-3759 Penn Avenue North to a C-2 district.
- 2) Approval of Conditional Use Permit to establish and operate a convenience store and pump islands located at 3755-3759 Penn Avenue North.
- 3) Approval and Denial of proposed Variances as determined by the City Planning Commission.
- 4) The applicant will consider adding a window to the building facing Dowling Avenue North.
- 5) Public Works approval of the curb cut on Penn Avenue North and curbing on site for the facility.
- 6) All signage is subject to Sections 531 and 543 of the Zoning Code. The applicant will submit a complete sign inventory for review by city staff with the final site plan.
- 7) All off-street parking spaces shall comply with Chapter 541 of the zoning code.
- 8) Staff review and approval of the final site plan, parking lot, fencing, landscaping, and exterior building improvements. All site improvements shall be completed by June 30, 2005 unless extended by the zoning administrator or permits may be revoked for noncompliance.
- 9) The existing lighting on site and domed lighting underneath the canopy be shielded to direct lighting downward instead of outward toward adjacent properties.
- 10) The final site plan will show two gas pump islands, as opposed to four gas pump islands, to allow better on-site vehicular maneuverability and circulation.
- 11) The final site plan will provide decorative fencing, bicycle parking, and a bus shelter on site as alternative compliance in exchange for not providing the required landscaping percentage, plant count, and landscaped setbacks in all places on the site as required by Chapter 530.
- 12) Dumpster screening shall comply with Chapter 525.80 of the zoning code, and the applicant will provide a locked gate for the garbage removal service.
- 13) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in amount of 125% of the estimated exterior site improvement costs before building permits are issued.
- 14) The applicant will present evidence that efforts were made to relocate and maintain the existing bus shelter closer Penn Avenue by participating in Metro Transit's adopt-a-shelter program.